

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JUANITA NICHOLS

PLAINTIFF

v.

CIVIL ACTION NO.: 3:17-CV-00042-CWR-FKB

**RELIANCE STANDARD LIFE INSURANCE COMPANY
and PECO FOODS, INC.**

DEFENDANTS

**RELIANCE STANDARD LIFE INSURANCE
COMPANY’S MEMORANDUM BRIEF IN SUPPORT OF ITS
MOTION TO STAY ADJUDICATION OF PENDING MOTIONS**

Reliance Standard Life Insurance Company (“Reliance”) hereby moves the Court to stay adjudication of the Plaintiff’s Motion for Prejudgment Interest [Dkt # 27] and Plaintiff’s Motion for Attorneys’ Fees [Dkt # 28] and would show unto the Court the following:

On June 29, 2018, the Court entered its Order denying Reliance’s Motion for Summary Judgment and awarding benefits to Plaintiff and instructing her counsel to file a motion for attorneys’ fees. On July 11, 2018, Reliance noticed its appeal of the Court’s ruling. [Dkt # 26]. On July 13, 2018, Plaintiff filed her Motion for Attorneys’ Fees as well as a Motion for Prejudgment Interest, compounded monthly.

A motion for attorneys’ fees, costs and interest are issues collateral to the merits. *See, e.g., Ray Haluch Gravel Co. v. Central Fund of Intern’l Union of Operating Engineers and Participating Employers*, 136 S.Ct. 773, 777 (2014)(holding that “the pendency of a ruling on award for [attorney] fees and cost does not prevent, as a general rule, the merits judgment from becoming final for purposes of appeal”); *Buchannan v. Stanships, Inc.*, 485 U.S. 265 (1988)(per curium)(holding that a motion for cost raises issues “wholly collateral” to the merits). This Court also has power to stay the instant motions incidental to its power

to control disposition of its docket for the sake of judicial efficiency. *Landis v. North American, Co.*, 299 US 248, 254 (1936). If the Plaintiff prevails at the Fifth Circuit, presumably Plaintiff will seek additional fees related to the appeal. Should Reliance prevail on appeal, rulings on the instant motions would be moot. Thus, Courts will often stay ruling on fee applications. *See, e.g., Bilheimer v. Federal Express Corp., LTD Plan*, 2013 WL 12178063*1(D.S.C.)(court stayed motion for fees until it could be informed by Fourth Circuit's decision on merits of case); *Spradley v. Owens-Illinois Hourly Employees Welfare Benefit Plan*, 2011 WL 209164*2 (E.D. Okl.)(withholding ruling on motion for attorney fees until Tenth Circuit rules on merits) Furthermore, staying a ruling on Plaintiff's motions causes no prejudice to Plaintiff inasmuch as Plaintiff will be unable to execute on the rulings until the Fifth Circuit rules on the merits.

WHEREFORE, PREMISES CONSIDERED, Reliance Standard Life Insurance Company respectfully requests that the Court grant its motion to stay adjudication of Plaintiff's motions.

This, the 25th day of July, 2018.

Respectfully submitted,

**RELIANCE STANDARD LIFE
INSURANCE COMPANY**

By: s/ Kelly D. Simpkins
Kelly D. Simpkins, Esq. (MSB #9028)
Its Attorney

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Kelly D. Simpkins, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the ECF system, which sent notification of such filing to the following:

Louis H. Watson, Jr., Esq.
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ATTORNEYS FOR PLAINTIFF

This, the 25th day of July, 2018.

s/ Kelly D. Simpkins

Kelly D. Simpkins

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